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FISCAL IMPACT STATEMENT

LS 7613

BILL NUMBER: HB 1631

NOTE PREPARED: Jan 22, 2005

BILL AMENDED:

SUBJECT: Pull Tabs, Punchboards, and Tip Boards.

FIRST AUTHOR: Rep. Adams T

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill authorizes pull tabs, punchboards, and tip boards in establishments licensed to sell alcoholic beverages to customers for consumption on the licensed premises. The bill also makes an appropriation.

Effective Date: July 1, 2005.

Explanation of State Expenditures: Under the bill, the Indiana Gaming Commission (IGC) is given the power and duty to administer, regulate, and enforce the operation of Type II gambling games in alcoholic beverage retail establishments. The bill defines a Type II gambling game as a pull tab (ticket or card), punchboard, or tip board game. The bill creates three licenses: (1) a retailer's license to conduct Type II gambling games; (2) a distributor's license to distribute the Type II gambling games in Indiana; and (3) a manufacturer's license to manufacture Type II gambling games in Indiana. Under the bill, investigative costs for a Type II gambling retailer's license is to be paid by the license applicant. To obtain a license to be a distributor or manufacturer of Type II gambling games, an applicant must already be licensed by the Department of State Revenue as a distributor or manufacturer of pull tabs, punchboards, and tip boards for purposes of charity gaming in Indiana.

The bill also appropriates sufficient revenue from the Type II Gambling Game Excise Tax and Type II gambling license fees to the IGC to cover the cost of administering Type II gambling.

Explanation of State Revenues: *License Fees:* The bill creates a retailer's license to conduct Type II gambling games; and licenses to distribute or to manufacture Type II gambling games in Indiana. Type II

gambling games are pull tab (tickets or cards), punchboard, and tip board games.

The retailer's license could be obtained by an alcohol beverage retail permit and club permit holder, including beer retailers, wine retailers, liquor retailers, restaurants, hotels, and social and fraternal clubs. The bill prohibits horse racetracks, OTBs, and riverboat casinos from obtaining a retailer's license. The annual fee for a retailer's license is \$250. The number of alcoholic beverage retail permit holders that would potentially apply for a retailer's license is indeterminable. There are currently about 7,100 establishments that would qualify to conduct Type II gambling games. If half of the qualified establishments obtained a retailers license, license revenue would total about \$890,000 annually. If all qualified establishments obtained a retailer's license, license revenue would total about \$1.8 M annually. It is important to note that about 1,100 of the qualified retail alcohol establishments are social and fraternal clubs that currently qualify for charity gaming licenses that allow operation of pull tab, punchboard, and tip board games, in addition to bingo and other games. The precise number of charity gaming licensees that hold an alcohol beverage retail permit is unknown. Thus, any change of these organizations from charity gaming licenses to the Type II gambling retailer's licenses would result in a reduction in charity gaming license revenue. The potential reduction that could occur is indeterminable, however, it would reduce charity gaming revenue distributed to the Build Indiana Fund.

The distributor's license and manufacturer's license could be obtained by a person licensed as a distributor or manufacturer for purposes of charity gaming in Indiana. The annual license fee for a distributor is \$1,000, and for a manufacturer is \$1,500. Based on FY 2004 licensing of charity gaming product distributors and manufacturers, these license fees could potentially generate about \$80,000 to \$90,000 annually. In FY 2004 there were 59 licensed distributors and 19 licensed manufacturers of charity gaming products.

Type II Gambling Game Excise Tax: The bill imposes an excise tax on the distribution of Type II gambling games to be paid by the retailer. The tax is 5.5% of the gross receipts attributable to each package or series of packages consisting of one game with the same serial number. Since the number of retailer's that might conduct Type II gambling games and the volume of business these retailers might conduct is unknown, the potential revenue from this tax is indeterminable. Based on FY 2002 to FY 2004 data for charity organizations, including social and fraternal clubs, that currently report receipts solely from pull tab sales, the tax could potentially generate \$5,000 per retailer. During this 3-year period, about 300 charity gaming licensees reported gross receipts solely from pull tab sales. The median annual gross receipts reported by these organizations was about \$90,000. If half the qualified establishments obtained a retailer's license, the median performance would generate about \$17.6 M in excise tax annually. If all the qualified establishments obtained a retailer's license, the median performance would generate about \$35.0 M annually. Again, some social and fraternal clubs that currently licensed for charity gaming could potentially shift to the retailer's license under the bill. If so, there would be an indeterminable reduction revenue from the Charity Gaming Excise Tax. This would reduce revenue from this tax that is distributed to the Build Indiana Fund.

Type II Gaming Enforcement Fund: The bill requires revenues from license fees, the Type II Gambling Game Excise Tax, and penalties to be deposited in the Fund. Money in the Fund does not revert to the state General Fund. The bill provides that money in the Fund is annually appropriated to the Indiana Gaming Commission to cover the cost of administering Type II gambling. The bill does not provide for any other expenditure of money in the Fund.

Other Revenue: The bill could potentially increase sales of pull tab, punchboard, and tip board games, increasing income tax revenue from any manufacturers and distributors located in Indiana. Conducting these games also could increase the income of the retailers, resulting in increased income tax revenue. Revenue from

the Adjusted Gross Income (AGI) Tax is deposited in the state General Fund and the Property Tax Replacement Fund.

If allowing operation of pull tab, punchboard, and tip board games in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Alcoholic Beverage Excise Tax revenue is deposited in the state General Fund, the Post War Construction Fund, the Alcohol and Tobacco Commission's Enforcement and Administration Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

Penalty Provisions: The bill establishes a Class A misdemeanor for: (1) making false statements on an application for a license; (2) operating Type II gambling games in a manner other than required by law; (3) permitting gambling by persons under 21 on Type II gambling games; and (4) accepting wagers on Type II gambling games off the retailer's licensed premises. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

The bill allows the IGC to levy a civil penalty against a licensee for specified violations of the Type II gambling law. The penalty can't exceed \$1,000 for the first violation; \$2,500 for the second violation; and \$5,000 for each additional violation. Penalties would be deposited in the Type II Gambling Games Enforcement Fund.

Explanation of Local Expenditures: *Penalty Provisions:* The bill establishes a Class A misdemeanor for various acts. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provisions:* The bill establishes a Class A misdemeanor for various acts. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Gaming Commission; Department of State Revenue.

Local Agencies Affected: Cities, towns, and counties; Trial courts, local law enforcement agencies.

Information Sources: Don Oaky, Excise Industry Liaison, Alcoholic and Tobacco Commission, (317) 232-2463; Local Government Database; *Charity Gaming Annual Report, FY 2002, FY 2003, & FY 2004*, Department of State Revenue.

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